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jects in controversy. It leaves a twilight zone—yes, darker than the twilight zone—an opportunity for those of the one nation or the other to say, “This question at issue between us involves honor or vital interest, and hence we will submit it to arbitration.” I appeal to all of you to aid in the ratification of these treaties (applause), especially to those of my own country. (Continued applause.)

It is fit that we here, enjoying our magnificent isolation, and with the trend toward peace and industry, should take the lead in this movement for arbitration which shall be world-wide. We have taken the lead in the past. Among the 500 arbitrations and more in which quarrels between nations have been averted, we have taken the foremost part, either as judges or as participants. A nation, like an individual, has a duty to perform, and it is for us to take no backward step in this great movement. (Applause.)

I take pleasure in introducing as the first speaker a member of Congress who has been an able and efficient worker in the cause of peace, who is now a member of the Committee on Foreign Affairs of the House of Representatives and was once its chairman. I introduce Hon. David J. Foster, a member of Congress from the Green Mountain State. (Applause.)

### The Four Corner-Stones of the Temple of International Justice.

Address of Hon. David J. Foster at the Public Mass Meeting held in the Hall of the Americas, Washington, D. C., Friday Evening, December 8.

*Mr. Chairman:* President Taft's peace treaties are part and parcel of the world movement which above all other movements is destined to give character and distinction to the twentieth century. It is a movement for the improvement of international manners and morals and conduct. It is a movement in behalf of the development of international law, the creation of a system of international jurisprudence, analogous to that which obtains in the modern nation and in keeping with twentieth century civilization. It contemplates a very general substitution of law for force in the settlement of international differences, just as with the progress of the centuries law has supplanted force in the settlement of private differences.

The final purpose of the movement is the establishment at The Hague of a permanent international court whose doors shall be always open, whose judges shall be men learned in the law, versed in international affairs and distinguished for wisdom and probity, whose judgment will carry conviction; and then a world treaty, binding the nations to send to that court for adjudication all their international differences which cannot be adjusted by the usual methods of diplomacy. In short, the twentieth century has undertaken the task of building an international temple of justice where international differences shall be adjudicated in accordance with the principles of law and justice.

For more than a century the nations of the world have been engaged in laying the foundations broad and deep for this noble edifice. The contributions to the work have been many and varied, but there are four of them which stand out conspicuously.

In 1795 Great Britain and the United States, through the now far-famed Jay treaty, laid the first cornerstone of this noble temple of international justice; for in that treaty provision was made for the settlement by arbitration of certain boundary disputes and other vexatious differences between our country and Great Britain. That treaty was severely criticised here as a surrender to Great Britain. It was the political death knell of its author, John Jay, our first Chief Justice. About every indignity that the ingenuity of a rancorous and embittered partisan spirit could devise was heaped upon his devoted head. He was burned in effigy. He was represented as selling out his country. A staid citizen of Massachusetts records seeing upon the fence surrounding the premises of Robert Treat Paine, in huge chalk letters, these words: “Damn John Jay. Damn every one who won't damn John Jay. Damn every one who won't put candles in his window and sit up all night damning John Jay.” Whether the sarcasm was conscious or unconscious, the incident plainly indicates the temper of the times. Yet that treaty marked an epoch in human history. No one studying it in the light of today has need to go further to know that John Jay was a great jurist, a great statesman, a great patriot. And thus was ushered in the modern era of international arbitration. Before that time nations went to war to settle their differences, not necessarily because they desired to do so, but because that was the only known method of settling them. Arbitration had been known in the ancient and medieval world as a method of settling international differences. It attained its greatest perfection among the Greeks. Thucydides tells us of a Spartan king who declared that it was unlawful to declare war against an opposing state until the latter had refused to submit the difference to arbitration. But long before the promulgation of the Jay treaty it had become an utterly lost art in international relations. How ready the world was for this new method is attested by the fact that according to the latest edition of the *Encyclopædia Britannica* one hundred and seventy-two international controversies were settled by arbitration before the close of the nineteenth century. If we include the cases settled by mixed commissions and other similar methods, we find that more than double that number of controversies were thus settled within the century. At its close arbitration had become the usual method for the settlement of international disputes among the enlightened nations.

Half a century after the Jay treaty the United States and Mexico laid the second cornerstone of this great temple of international justice. In all the instances just referred to, arbitration was agreed upon after the differences had come into existence. But in the treaty at the close of the Mexican war, in 1848, the United States and Mexico bound themselves to use their best endeavors to settle by arbitration any differences that might thereafter arise between them. This was the first instance, at least in modern times, where two nations bound themselves by treaty obligations to use their best endeavors to settle in this manner such future differences as might arise between them. That this action met with the approval of the world is strongly attested by the fact that a similar provision was incorporated in fifty-six international treaties before the close of the century whereby fifty-six pairs of nations bound themselves in a similar manner.

And then fifty years later the nations of the earth, meeting at the Hague, through their representatives, by invitation of His Majesty, the Czar of Russia, laid the third corner-stone of this temple. The most significant result of that conference was the assurance that thereafter at regular stated intervals the nations of the world would thus meet at the Hague in conference for the development of international law. The difficulty through all the preceding centuries had been that international law had not kept pace in its development with law within the nation. It remained a rather vague and indefinite body of customs and usages. Law within the nation had developed because of the existence of legislative bodies to enact and judicial bodies to interpret. But there were no such forces for the development of international law. The Hague Conference of 1907 was absolutely the first of its kind in all the history of mankind. So international law in its development had lagged far behind the civilization of the times. But with these frequently recurring conferences, participated in by all the nations of the world, we may look forward confidently to a rapid development of the law of nations.

But this first Hague Conference not only gave the world this assurance of a new era in the development of international law, but for the first time in all history it provided for the establishment of an international court. To be sure, that court was of the most primitive sort. It consisted merely of a panel of judges from which two nations might select the judges to try a controversy pending between them. It was in all respects similar to the courts in England in the early days—those courts which, through the process of the centuries, have developed into the world-famed English courts of justice. And thus the great crane of human progress, under the direction of the nations assembled through their representatives at the first Hague Conference, lifted from the quarry of human development and human achievement and placed in position the third corner-stone of our new temple of international justice.

During all these decades of progress in international relations it was iterated and reiterated by the nations that there were certain questions involving national honor and vital interest which no self-respecting nation could ever consent to submit to arbitration. As late as 1896 Lord Russell of Killowen, Lord Chief Justice of England, in the course of an altogether admirable address before the American Bar Association on International Law, declared: "Men do not arbitrate where character is at stake, nor will any self-respecting nation readily arbitrate on questions touching its national independence or affecting its honor." But President Taft a few months ago boldly proclaimed the doctrine that there is no essential difference between national honor and private honor, between national boundaries and private boundaries, between national differences of every sort and private differences of every sort; and that just as the individual through the progress of the ages has learned to submit to the proper court all his differences with his fellows, albeit they involve his honor, his good name, and all that he holds most dear, so nations should be willing to submit all their differences to a properly constituted court. The result of this brave declaration is still fresh in the minds of all. It made a profound impression throughout the world, and it was promptly

followed by the treaties between Great Britain and the United States and France and the United States, providing for the settlement by arbitration of such international differences as may hereafter arise between our country and Great Britain and France. These treaties are now pending in the Senate. When in the course of a few weeks they are ratified by the Senate, as they will be ratified, Great Britain and France and the United States, under the leadership of President Taft, will have laid the fourth and last corner-stone of the great temple of international justice which the twentieth century is building.

A moral obligation rests upon us in connection with these treaties. Our record of profession and achievement, the position we took in both the Hague Conferences, our faith in the new movement, our sincere desire for its success, our profound confidence in our leader, and our absolute approval of his brave declaration, all require that we make the provisions of these treaties the law of the land. To fail to do so would be to brand ourselves a nation of hypocrites, a nation with a government impotent to carry its beneficent policies to their logical conclusion.

While it is true that we have entered upon a new era of international relations, and while it is true that never before has the world seen so great, so widespread and so far-reaching activity in behalf of the peaceful settlement of international differences, we should not be misled by the enthusiasm of those of the brethren who see the immediate and final disappearance of war. To the success of the proposed union for the administration of international justice it is essential that each component nation should have an enlightened constitutional government and a unified national life, to the end that it may maintain a high degree of law and order within its borders and give assurance of ability to fulfill its treaty obligations. We need but glance over the world to appreciate the amount of preparatory work which remains to be done. Progress is slow of foot and her pathway is frequently the mountain trail.

On the other hand, we should not be dismayed by those who proclaim from the market-place that while our motives are praiseworthy, our efforts must remain forever futile; that war, and not peace, is the normal state of nations; that human nature does not change, and that as long as good red blood flows in their veins men will fight. If it be true that human nature does not change, nevertheless conditions do change, and for the better. Progress within the nation has been effected by harnessing this so-called unchanging and unchangeable human nature under wise and beneficent laws. The law-abiding citizens within the nation continue to have good red blood coursing their veins, but they do not fight. The rare exceptions only prove the rule. And because mob rule is occasionally substituted for law, no one would question the desirability and efficacy of municipal law. So with the final establishment of a system of international jurisprudence; it is undoubtedly true that a crisis might occur when international mob rule would be substituted for international law and the judgment of the international court. But the development of this new method of administering international relations will circumscribe tremendously the sphere of war. It will do this by harnessing and bridling those groups of unchanging and unchangeable

human nature which we call nations under new, enlightened, beneficent laws. "The tumults of the times, disconsolate, to inarticulate murmurs die away, while the eternal ages watch and wait."

### Letter from Senator John Sharp Williams.

The chairman then asked Dr. Trueblood to read a letter which he had received from Senator John Sharp Williams, who had been prevented, by injuries received in a runaway, from attending the meeting. The letter was as follows:

DECEMBER 7, 1911.

Mr. BENJAMIN F. TRUEBLOOD,  
Secretary American Peace Society,  
313-314 Colorado Building,  
Washington, D. C.

*My Dear Sir:* For reasons that are purely personal I shall be unable to take a place upon the program, as requested. I am very much interested, however, as I think all patriotic Americans and all patriotic world-citizens ought to be, in the great peace movement, and especially in the proposed arbitration treaties with England and France, which constitute such a long step toward the end desired by all of us.

I am in favor of the Senate ratifying the two treaties just as they stand, without any amendment. I believe that the Root amendment is not only useless, but that it is dangerous. It is admitted by its author to be useless. I think it is dangerous for the reason that if you once attempt to define what particular things do not fall within the scope of the arbitration purpose, you would have to go on and define everything which does not fall within its scope, in order to prevent the operation of the rule that "the expression of one thing is the exclusion of others."

The treaty in no way trespasses upon the constitutional prerogatives of the Senate as a part of the treaty-making power. If the Senate can agree beforehand, without further action upon its own part, to accept the award of a board of arbitrators upon a specific question submitted, it can undoubtedly agree in the same way to accept beforehand awards upon "all justiciable" matters, such as are submitted by the proposed treaties. The power conferred under the treaty upon the Joint High Commission (or rather five of its six members) is merely a power to interpret the scope of the treaty itself, and to determine whether a given question does or does not fall within its scope. The Senate no more surrenders its treaty-making power when it leaves to some constituted agency this particular power than the Congress of the United States surrenders its law-making power when it leaves to a customs board or customs court the power of determining whether or not a given imported article falls within one or another schedule of a tariff act. An analogous case is also that of the Interstate Commerce Commission, Congress prescribing that railway rates shall be reasonable and non-discriminatory, and leaving to the board to determine whether a given rate is reasonable or unreasonable, discriminatory or equal.

The treaty itself fixes, as the subject-matter of its operation, "questions hereafter arising" which shall be

in their nature "justiciable"—that is, capable of being determined on "principles of law or equity;" and by the force of these two limitations it excludes as strongly as language could exclude from the operation of the treaties questions of national policy, such as the Monroe Doctrine and alien immigration, as well as all other questions which are purely questions of national policy. The Monroe Doctrine is a question of hemispheric hegemony.

What these treaties will actually accomplish pales into insignificance in comparison with what may naturally follow them—grow out of them. This I have expressed to the best of my ability in an article to be published in the *World Today*.

If the five great maritime powers of the world, or if even the three greatest maritime powers of the world, were to enter into the proposed treaty agreements with us and with one another, and were afterwards in good faith to attempt to impress them upon the world in every peaceable manner, the chances of war amongst nations would be minimized to an extent hardly calculable. As far as I am concerned personally and officially, my hand, my heart, my voice, and my vote are with this movement. The world may possibly never see the day of "the parliament of man and the confederation of the world," where "the common sense of most shall hold fretful realms" in the paths of peace, but it is at any rate a condition worth working toward, self-elevating to hope for, and a condition toward which the advocates of these treaties will be setting their faces and toward which those who oppose these treaties will be turning their backs. May God speed the good movement.

I am, with every expression of regard,

Very truly yours,

JOHN SHARP WILLIAMS.

### Universal Peace.

By Hon. Saburo Shimada.

The chairman next introduced Hon. Saburo Shimada, a distinguished member of the Japanese Parliament now in this country studying the conditions of the Japanese, especially on the Pacific Coast, who spoke as follows:

Peace is the universal demand of the age. The unequal distribution of wealth in the countries of the world has given rise to certain serious and grave problems, the solution of which requires that there shall be universal peace. The commerce of the world, with its far-reaching relations, binding the great nations together in a bond which involves the welfare of many people, makes it necessary that there shall be a period of unbroken peace. The great world movements which have to do with the social intercourse between the peoples of the world are all of them very closely bound up with this desire and need for universal peace. Internal reforms in the different nations of the world are possible only when there is no external interference. What I have here to say, however, has to do particularly with the problem of the relations existing between Japan and the United States of America. For more than fifty-eight years this relation has remained unbroken and peaceful, and has increased in strength and mean-